

EDWIN FORSBERG

IBLA 80! 299

Decided May 13, 1980

Appeal from decision of the California State Office, Bureau of Land Management, holding three lode mining claims abandoned and void. CA MC 60483-85.

Affirmed.

1. Notice: Generally -- Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

2. Federal Land Policy and Management Act of 1976: Generally --
Federal Land Policy and Management Act of 1976: Recordation of
Mining Claims and Abandonment -- Mining Claims: Recordation

Under sec. 314 of the Federal Land Policy and Management Act of Oct. 21, 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2, the owner of a mining claim located before Oct. 21, 1976, must file a copy of the official record of the notice or certificate of location with the proper Bureau of Land Management Office on or before Oct. 22, 1979. These requirements are mandatory and failure to comply is deemed conclusively to constitute an abandonment of the claim by the owner and renders the claim void.

APPEARANCES: Edwin Forsberg, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Edwin Forsberg appeals the December 19, 1979, decision of the California State Office, Bureau of Land Management (BLM), declaring three mining claims abandoned and void for failure to timely file such instruments as are required by 43 CFR 3833.1 and 3833.2 within the time period prescribed. 1/

On April 22, 1938, one Mable K. Moore located the Secret lode mining claim. On April 16, 1938, one B. F. Moore located the Coast View lode mining claim, and on April 17, 1944, the Tungsten Hill lode mining claim. By quitclaim deed dated March 5, 1955, Mable K. Moore transferred ownership of the three claims to O. Edwin Forsberg and G. Muriel Forsberg, his wife.

On October 26, 1979, Forsberg filed with BLM copies of the location notices for the Secret, Coast View, and Tungsten Hill lode mining claims, with statements that all assessment work required for 1979 had been done and notice thereof recorded for the three claims, together with his check in the amount of \$15 to pay the necessary service charges for recordation.

BLM, by decision dated December 19, 1979, notified Forsberg that he had not filed the instruments required by section 314, Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the regulation, 43 CFR 3833.1-2(a), on or before October 22, 1979, so that pursuant to 43 CFR 3833.4(a), the subject mining claims were deemed conclusively to be abandoned and void.

1/ The pertinent regulations, 43 CFR 3833.1-2 and 3833.2-1, provide in part as follows:

"[§] 3833.1-2 Manner of recordation -- Federal lands.

"(a) The owner of an unpatented mining claim * * * located on or before October 21, 1976, on Federal lands * * * shall file (file shall mean being received and date stamped by the proper BLM Office) on or before October 22, 1979, in the proper BLM Office, a copy of the official record of the notice or certificate of location of the claim or site filed under state law.

* * * * *

"§ 3833.2-1 When filing required.

"(a) The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, whichever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim."

Appellant states that he thought the postmark of October 22, 1979, on the envelope in which the documents were transmitted to BLM would satisfy the filing date of October 22, 1979.

[1] All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Willene Minnier, 45 IBLA 1 (1980); Donald H. Little, 37 IBLA 1 (1978). It was thus incumbent upon appellant to comply with the pertinent regulations. The applicable regulation, 43 CFR 3833.1-2(a) provides that "file" means "being received and date stamped by the proper BLM office." See H. P. Saunders, Jr., 59 I.D. 41, 42-3 (1945).

[2] The owner of an unpatented mining claim located prior to October 21, 1976, had until October 22, 1979, to record the location with BLM and to provide certain ancillary information. Section 314, FLPMA, 43 U.S.C. § 1744 (1976). The pertinent regulations are 43 CFR 3833.1-2 and 3833.2-1. Recordation is effected only by filing a copy of the official record of the location or certificate filed under state law with the proper BLM office, 43 CFR 3833.1-2(a), and by paying the appropriate service charge of \$5 per claim, 43 CFR 3833.1-2(d). Failure to comply with the regulations governing recordation of information relating to unpatented mining claims must result in a conclusive finding that the claim has been abandoned and that it is void. Section 314(c), FLPMA, 43 U.S.C. § 1744(c) (1976); Willene Minnier, *supra*; Joe B. Cashman, 43 IBLA 239 (1979); Walter T. Paul, 43 IBLA 119.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Frederick Fishman
Administrative Judge

